

STATE OF COLORADO
SECRETARY OF STATE
1700 BROADWAY #550
DENVER, COLORADO 80290

BEFORE THE SECRETARY OF STATE, COLORADO DEPARTMENT OF STATE,
ADMINISTRATIVE HEARING OFFICER

AHO Case No. _____

ED Case Nos. 2024-65

In the Matter of

ELECTIONS DIVISION OF THE SECRETARY OF STATE,

Complainant,

vs.

MONTROSE COUNTY SCHOOL DISTRICT,

Respondent.

COMPLAINT

Pursuant to § 1-45-111.7, C.R.S. (2024), the Elections Division of the Secretary of State files this complaint against Montrose County School District (the “District” or “Respondent”).

BACKGROUND

1. Colorado law prohibits political subdivisions, including school districts, from using public funds to urge voters to support or oppose ballot measures. Although a subdivision can provide neutral, factual, information about a measure, that information cannot advocate for or against the measure and must provide arguments both for and against the proposed initiative.

2. During the 2024 election, the Montrose County School district referred a ballot measure to voters in the District. The measure, which voters rejected, asked voters to approve new debt which would be used to fund certain capital projects including a new high school.

3. After referring the initiative to voters, the District spent nearly \$20,000 on brochures and a video encouraging voters to support the measure. This money was spent in violation of the prohibition on political activity by political subdivisions.

4. Accordingly, the Elections Division brings this action for appropriate relief.

PARTIES

5. Complainant is the Elections Division (“Division”) of the Colorado Secretary of State.

6. Respondent is Montrose County School District, a political subdivision of the state of Colorado.

JURISDICTION AND VENUE

7. The Division has jurisdiction under § 1-45-111.7.

8. The Division files this complaint with a hearing officer consistent with § 1-45-111.7(5)(a)(IV).

9. This complaint is timely filed within thirty days of Division’s April 10, 2025, Notice of Consolidation and Investigation, according to § 1-45-111.7(5)(a)(IV).

10. Venue is proper before the hearing officer under § 1-45-111.7(5).

ALLEGATIONS

11. In 2024, District voted to refer a bond measure to voters within the district. The measure asked voters to approve new debt in the form of a bond measure. The measure passed unanimously.

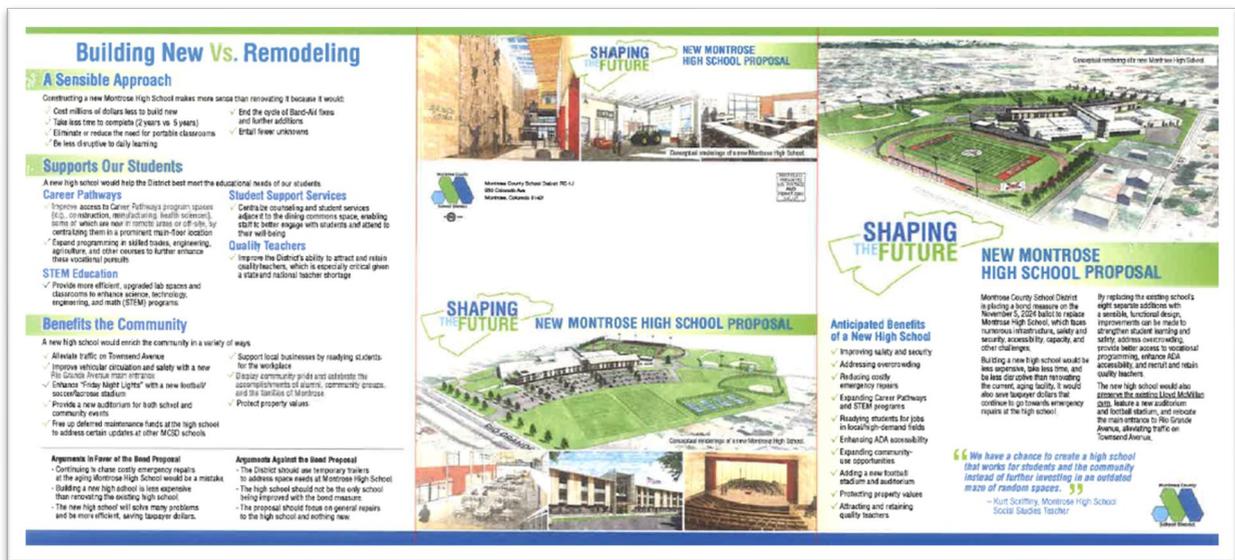
12. After voting to refer the measure to the voters, the District took several steps to urge voters to approve the measure.

13. First, the District added a corner to its website, with several pages describing aspects of the bond. One of those pages linked to a video prepared by a professional vender. In the corner of one of the pages the District included a list of arguments for and against the bond.

14. Otherwise, each of the webpages devoted to the bond cast the bond in a positive light and urged voters to support the bond.

15. The District also distributed over 16,000 brochures to eligible voters in the November 2024 election.

16. The brochures included the same list of arguments for and against the measure that appeared on the District's website. However, the brochure otherwise only presented the bond in a positive light and urged voters to support the bond.



17. The District spent \$14,272 on the brochures, and \$4,641 on the video. In total, the District spent \$18,913 in ascertainable costs urging voters to support the bond measure.

18. On September 15, 2024, the Division received a campaign finance complaint filed by George Kerber against the District. The Complaint alleged that the District's webpage and Facebook page were improperly advocating in favor of the measure.

19. After receiving notice of the Kerber Complaint, the District took steps to cure the alleged violation.

20. The District removed the video from public view, and featured the list of arguments for and against the measure more prominently on the webpage.

21. The District’s webpages still included mostly positive information about the bond measure. And the District was unable to cure the brochure, which had already been distributed.

COLORADO CAMPAIGN FINANCE LAW

22. Under Colorado law, political subdivisions, including school districts, are prohibited from spending “any money from any source . . . to urge electors to vote in favor or against any: . . . (III) Referred measure . . . passed by the . . . governing body of any political subdivision of the state with authorization to refer matters to voters.” § 1-45-117(1)(a)(I).

23. Political subdivisions may, however, use public funds to “dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue.” § 1-45-117(1)(b)(I).

CLAIM ONE PROHIBITED CONTRIBUTION (§ 1-45-117(1)(a)(I), C.R.S. (2024))

24. All preceding allegations are incorporated.

25. In 2024, the District spent \$18,913 on a video and a brochure discussing the bond measure it had referred to voters for that November’s election.

26. The video and brochure painted the measure in a positive light, and had the effect of urging support for the bond.

27. The video and bond were distributed to members of the electorate in the Montrose School District.

PRAYER FOR RELIEF

WHEREFORE, the Elections Division prays for judgment and relief as follows:

1. Penalties as set out under 8 CCR 1505-6, Rule 23.4.3 and section 1-45-117(4), C.R.S.
2. Such other relief as the Hearing Officer may deem appropriate.

Respectfully submitted this 12th day of May, 2025

PHILIP J. WEISER
Attorney General

/s/ Peter G. Baumann

PETER G. BAUMANN*
Senior Assistant Attorney General, No 51620
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 6th Floor
Denver, Colorado 80203
Telephone: 720-508-6152
Fax: 720-508-6041
peter.baumann@coag.gov
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I will cause the foregoing to be served this 12 day of May, 2025, by email and/or U.S. mail, addressed as follows:

Montrose County School District
c/o Thomas Matthew Jenkins, Public Information Officer; and
Dr. Carrie Stephenson, Superintendent
930 Colorado Avenue, Montrose, Colorado 81402
Thomas.Jenkins@mcsd.org; CarrieStephenson@mcsd.org
Respondent

George Kerber
2108 County Road 22
Montrose, CO 81403
pixeldebris@gmail.com
Third-Party Complainant

/s/ Peter G. Baumann

With courtesy copy provided by email to Respondent's counsel at:

Darryl Farrington
dfarrington@sempelaw.com

/s/ Peter G. Baumann